

TO AMEND PUBLIC LAW 108-331 TO PROVIDE FOR THE CONSTRUCTION  
AND RELATED ACTIVITIES IN SUPPORT OF THE VERY ENERGETIC  
RADIATION IMAGING TELESCOPE ARRAY SYSTEM (VERITAS) PROJECT IN  
ARIZONA

---

SEPTEMBER 15, 2008.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

---

Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

## R E P O R T

[To accompany S.J. Res. 35]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the joint resolution (S.J. Res. 35) to amend Public  
Law 108-331 to provide for the construction and related activities  
in support of the Very Energetic Radiation Imaging Telescope  
Array System (VERITAS) project in Arizona, having considered the  
same, report favorably thereon without amendment and rec-  
ommend that the joint resolution do pass.

### PURPOSE OF THE LEGISLATION

Senate Joint Resolution 35 (S.J. Res. 35) amends Public Law  
108-331 to authorize the Board of Regents of the Smithsonian In-  
stitution to locate the VERITAS telescope at Fred Lawrence Whipple  
Observatory Base Camp on Mount Hopkins, Arizona, or other  
similar location.

### BACKGROUND AND NEED FOR LEGISLATION

In the 108th Congress, Congress enacted Public Law 108-331, to  
authorize the Board of Regents to construct the Very Energetic Ra-  
diation Imaging Telescope Array System (“VERITAS”) project on  
Kitt Peak near Tucson, Arizona.

In 1958, the National Science Foundation (“NSF”) and the  
Papago tribe (now the Tohono O’odam Nation (“TON”)) entered into  
a perpetual lease of Kitt Peak, Arizona. The lease is conditional  
upon the use of the site for scientific research. NSF and the De-  
partment of Energy (“DOE”) are the lead agencies for the  
VERITAS project’s construction and will contribute \$13 million of

the \$14 million necessary to construct the project. In 2003, NSF subleased land to the Smithsonian Astrophysical Observatory for construction of the VERITAS project in Horseshoe Canyon on Kitt Peak. In 2004, NSF began construction of the project. In 2005, in response to litigation initiated by TON, construction of the VERITAS telescope array came to a halt. Although the case was dismissed, NSF and DOE subsequently determined that the agencies had not complied with National Environmental Protection Act requirements.

Given the uncertainty of construction at the Kitt Peak site, the VERITAS project team began fabricating telescopes at the Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, which is approximately 35 miles from Kitt Peak's Horseshoe Canyon. The subsequent results of testing and analysis of array data of the telescope at the Whipple Observatory resulted in very high-quality data, on a par with the data expected at the Horseshoe Canyon site. As a result, the VERITAS Science Consortium and Smithsonian Astrophysical Observatory requested that NSF allow the VERITAS telescope to remain at the Whipple Observatory for the rest of its scientific life. In October 2007, NSF granted the Smithsonian Astrophysical Observatory's request for permanent placement of VERITAS at the Whipple Observatory Base Camp.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Location of VERITAS Project*

Section 1 amends Public Law 108–331 in the long title, by striking “on Kitt Peak near Tucson, Arizona” and inserting “in Arizona”; and in section 1, by striking “on Kitt Peak near Tucson, Arizona” and inserting “at the Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, or other similar location”.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 108th Congress, Congress enacted Public Law 108–331, to authorize the Board of Regents of the Smithsonian Institution to construct the Very Energetic Radiation Imaging Telescope Array System (“VERITAS”) project on Kitt Peak near Tucson, Arizona.

On May 22, 2008, Senator Patrick J. Leahy introduced S.J. Res. 35, to amend Public Law 108–331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona.

On July 17, 2008, the Senate passed S.J. Res. 35 by unanimous consent.

On July 31, 2008, the Committee on Transportation and Infrastructure met in open session and ordered S.J. Res. 35 reported favorably to the House by voice vote with a quorum present.

#### RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each recorded vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded

votes taken in connection with consideration of S.J. Res. 35 or ordering the resolution reported. A motion to order S.J. Res 35 reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation is to authorize the Board of Regents of the Smithsonian Institution to locate the VERITAS telescope at Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, or other similar location.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for S.J. Res. 35 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 25, 2008.*

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S.J. Res. 35, a bill to amend Public Law 108-331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

PETER H. FONTAINE  
(For Peter R. Orszag, Director).

Enclosure.

*S.J. Res. 35—A bill to amend Public Law 108–331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona*

S.J. Res. 35 would authorize the board of regents of the Smithsonian Institution to locate the Very Energetic Radiation Imaging Telescope Array System at Whipple Observatory Base Camp on Mount Hopkins, Arizona. Public Law 108–331 originally authorized the construction of that system on Kitt Peak, Arizona. CBO estimates that enacting S.J. Res. 35 would not affect the federal budget.

S.J. Res. 35 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Christina Hawley Anthony. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

#### COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, S.J. Res. 35, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or tribal law. The Committee states that S.J. Res. 35 does not preempt any State, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

# APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

## ACT OF OCTOBER 16, 2004

(Public Law 108–331)

AN ACT to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ASTROPHYSICAL OBSERVATORY PROJECT.**

The Board of Regents of the Smithsonian Institution is authorized to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project [on Kitt Peak near Tucson, Arizona] *at the Fred Lawrence Whipple Observatory Base Camp on Mount Hopkins, Arizona, or other similar location.*

\* \* \* \* \*

